

In the matter of trademark Registration No. 1,671,682
For the mark "LEE & Design"
Date registered on Principal Register January 14, 1992

Lee's Tackle, Inc.

a Florida corporation

Petitioner,

VS.

Taitex Enterprises

a Texas Corporation

Registrant.

Cancellation No.



U.S. Patent & TMOfc/TM Mail Rcpt Dt. #74

PETITION TO CANCEL

COMES NOW the Petitioner, Lee's Tackle, Inc., ("Petitioner"), a Florida corporation having an address at 8227 NW 54th Street, Miami, Florida 33166, and petitions to cancel Registration No. 1,671,682 for the mark "LEE & Design" issued on January 14, 1992, (the "'682 Registration") owned by Taitex Enterprises Co., ("Registrant"), upon information and belief a Texas corporation, having an address at 10943 Day St., Houston, Texas 77043. Petitioner believes that it is or will be damaged by the '682 Registration, and alleges the following for cancellation of same:

01/14/2005 ZCLIFT01 00000034 1671882 Upon information and belief, the '682 Registration issued

01 FC:6401

600.00 DP

to the Principal Register on January 14, 1992, for the mark LEE and Design for use in connection with fishing tackle, boat rod holders, boat and drain plugs.

2. Upon information and belief, Registrant has not filed any declaration or affidavit pertaining to incontestability of the '682 Registration pursuant to Section 15 of the Trademark Act, 15 U.S.C. §1065.

3. For well over fifty (50) years, and long prior to Registrant's claimed date(s) of first use and filing date(s) for the mark set forth in the '682 Registration or any other date upon which Registrant may rely, Petitioner adopted and used in U.S. commerce the inherently distinctive trademark "LEE'S & Design," (the "LEE'S Trademark"), in connection with fishing equipment, namely outriggers, fighting chairs, rod holders, rod storage, and rod and reel hanger sets, an example of which is attached hereto as Exhibit A. By virtue of long and continuous usage, and since long prior to any date upon which Registrant may rely, the LEE'S Trademark has acquired secondary meaning in association with Petitioner, and become highly distinctive and famous.

4. Petitioner has applied for registration of the mark "LEE'S & Design" for and in connection with fishing equipment, namely outriggers, fighting chairs, rod holders, rod storage, and rod and reel hanger sets. Such registration has been preliminarily objected to by the Examiner for the United States Patent and

Trademark Office, who has cited the '682 Registration, despite the long prior usage of the LEE'S Trademark by Petitioner, thereby conferring standing on Petitioner in this matter by further damaging Petitioner.

5. Petitioner, and its predecessor, owned and operated by three generations of the LEE family, have been in business since at least as early as 1920, in the field and trade of fishing equipment and accessories. For well over fifty (50) years, and long prior to Registrant's claimed date(s) of first use and filing date(s) for the mark set forth in the '682 Registration or any other date upon which Registrant may rely, Petitioner adopted and used the trade name "LEE'S TACKLE", and, since at least as early as 1956, "LEE'S TACKLE, INC." often and commonly shortened to "LEE'S" by the consuming public. The terms "LEE'S TACKLE"/"LEE'S TACKLE, INC." and "LEE'S" both with and without the design, are commonly used by the consuming public in reference to and to identify the Petitioner (the "LEE'S Trade Names"). Several examples of the LEE'S Trade Names are shown in Exhibit B

6. Since long prior to any date upon which Registrant may rely, Petitioner has achieved wide-spread and substantial sales, advertising, and promotion of its various products, including its fishing equipment designated by the LEE'S Trademark, and its corporate identity and trade name pursuant to the LEE'S Trade Names have become well known. Petitioner has grown to be a multi-million

dollar company, and the LEE'S Trademark and LEE'S Trade Names have come to identify Petitioner, and its fishing equipment, and to distinguish said products and Petitioner from others companies and products.

7. The LEE'S Trade Names are and have been so commonly used by Petitioner and others to identify Petitioner, that Petitioner is now, and since long prior to any date upon which Registrant may rely, has been generally known and referred to by the public pursuant to the LEE'S Trade Names.

8. By virtue of long and continuous use, and since long prior to any date upon which Registrant may rely, the LEE'S Trade Names have developed a secondary meaning and significance, and have been readily recognizable, by the public and the trade as designations associated exclusively with Petitioner, and have become highly distinctive of Petitioner's identity and famous.

9. Registrant's registered mark is the same or a close approximation of Petitioner's previously used LEE'S Trade Names and identity, and would be recognized as such by the consuming public.

10. Petitioner is not connected with the activities performed by Registrant under the registered mark.

11. Petitioner's LEE'S Trade Names and identity are of sufficient fame and reputation that when the Registrant's registered mark is used on its goods or services, a connection with Petitioner would be presumed by the consuming public, contrary to

fact.

12. The public, upon seeing Registrant's registered mark, is likely to believe, contrary to fact, that Petitioner's goods and services emanate from Registrant or are in some way connected with Registrant, such that Registrant's registered mark comprises deceptive matter which falsely suggests a connection with Petitioner, in violation of Section 2(a) of the Trademark Act, 15 U.S.C. 1052(a).

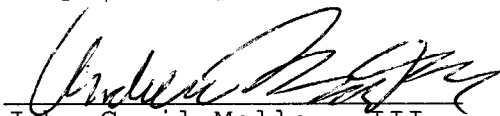
WHEREFORE, Petitioner prays that this Petition to Cancel be granted and that said Registration No. 1,671,682 for the mark "LEE & Design" be canceled.

A duplicate copy of this Petition to Cancel and the fee required in 37 C.F.R. §2.6(a)(16) (\$300 per class, for a total of \$600) are enclosed herewith.

Respectfully submitted,

Dated: January 5, 2005

By:


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CERTIFICATE OF EXPRESS MAILING

I HEREBY CERTIFY that an original and one copy of the foregoing document is being deposited by United States Express Mail, Label No. EV560873083US, in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451 this 5th day of January, 2005.

Respectfully submitted,

By:

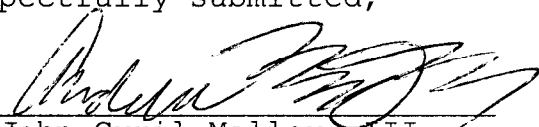

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EXHIBIT A



SINCE
1920

REEF'S
MIAMI

QUALITY
MARINE
EQUIPMENT

SOLID
BRASS

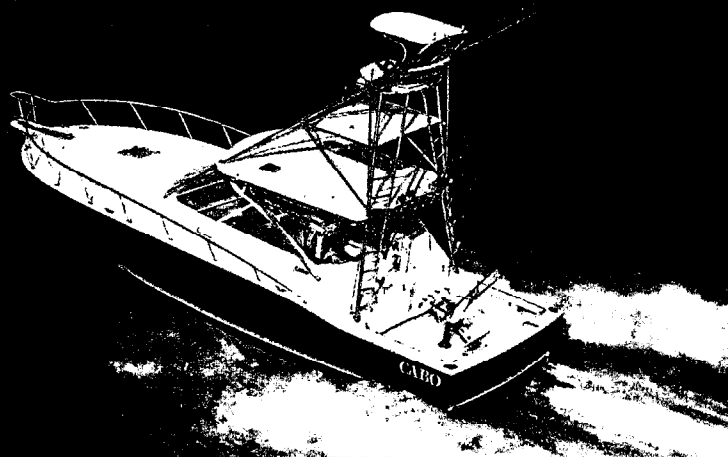
Yachting

EXHIBIT B

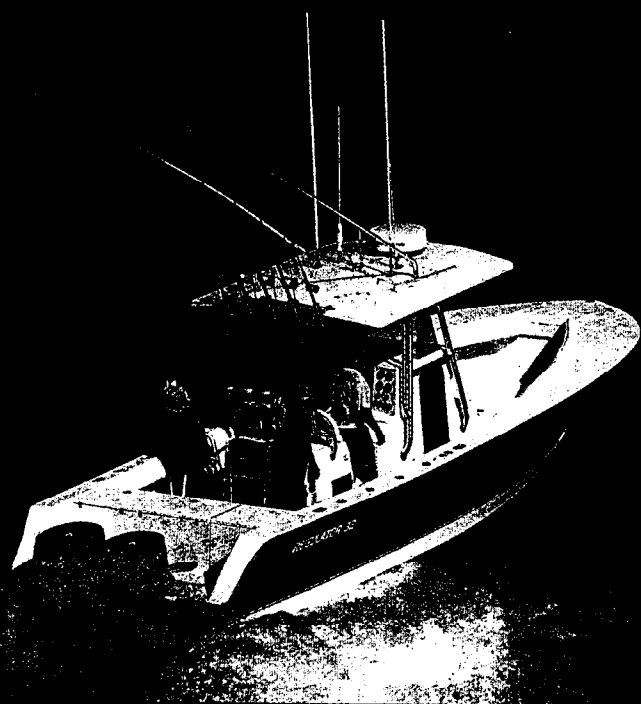
Mx

LEE'S
Established 1920

ProSeries



Established 1920



LEE'S
Established 1920

Sidewinders

**Top Mounted
Outriggers**

The corner of Biscayne Blvd & McArthur Causway
Downtown Miami Florida circa 1950

The "Lee Reels", built by Roswell Lee
during the mid-thirties.



Started by Edward J. Lee in Miami, Florida, in 1920 as a retail fishing tackle store. Roswell E. Lee Sr. began manufacturing big-game fishing reels, rod holders, and fighting chairs in the mid 1930s. Production of our extensive line of outrigger holders, poles and rod holders began shortly after World War II, when materials became readily available again. Roswell Lee was the first to use aluminum tubing for outriggers. He also designed and patented the Roller Top. Most of his designs are still state of the art today.

Today Lee's Tackle products, the most widely imitated in the field, incorporate a diverse product line of well over 46 distinct rod-holder models, 8 styles of outrigger holders, outrigger poles from 11 to 50 feet in length, a complete line of fighting, fishing, and helm chairs in both teak and fiberglass, and other miscellaneous sport fishing equipment.

For more than 80 years, we at Lee's Tackle have had an established reputation for building the highest quality precision equipment using the finest marine materials. As the third generation, we are proud to carry on this tradition. Whether you own a 15-foot flats skiff or a 120-foot super sport fisherman, you will find a Lee's Tackle product that fits your needs.



In memory of:
Roswell E. Lee Sr.
1912 - 2001

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